SPEECH

Restoring Trust in Public Policy: What Role for the Public Service?*

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> *You can fool all of the people some of the time, and some of the people all of the time; but you can't fool all of the people all of the time.*
>
> Attributed to Abraham Lincoln.

The Decline of Trust

In a recent Australia-wide poll of public trust in the professions, top places were dominated by those who work in the healthcare and emergency fields - paramedics and fire-fighters coming equal first. In second last spot (49th) were politicians, who were ranked just below real estate agents, talkback radio hosts and sex workers, and eclipsed for the wooden spoon only by door-to-door sales people.

These results were mirrored in rankings of 100 significant Australians in public life. At the top again were the 'white coats' (Fiona Stanley, Ian Frazer, Charlie Teo), whereas our then serving Prime Minister and Opposition Leader were placed 97th and 98th respectively – outflanked only by Brendan Fevola (99th) and Shane Warne (100th).

I confess that the polls in question were conducted by the *Reader's Digest*, and although this venerable journal of the people has a large readership, I cannot vouch for the statistical robustness of its polling. However, the results have been remarkably stable over time. Moreover, they are consistent with a range of professional polls and surveys, which indicate that trust in politicians, and government generally, has been falling significantly.

The most recent of these was conducted by researchers at Monash University and detailed in the sixth *Mapping Social Cohesion* report (Markus 2013). In a 2013 survey of 6000 Australians, political parties and Federal Parliament ranked at the bottom in the institutional trust stakes (the latter just below trade unions). Moreover, only 27 per cent of respondents said the Federal Government could be trusted to do the right thing 'almost always' or 'most of the time', compared to 48 per cent in the 2008 survey.

A Roy Morgan survey last year found the level of distrust in government to be higher than at any time since polling of this commenced a decade previously. Its survey of professional ethics has also revealed a steady deterioration in public perceptions over time, with only 15 per cent of respondents judging ethical standards within government to be 'high'. In an AFR/Nielsen Poll in April, one-half of respondents reportedly thought the Prime Minister "easily influenced" by minority interests.

Of possibly greater concern, for reasons that will become clear, some opinion polls also suggest a recent decline in trust in *public servants* - at least those not in 'white coat' professions.

Opinion polls cannot be considered 'revealed truth', but the consistency of the results across a range of them seems telling. Moreover, the decline in trust they indicate is manifest in other, more tangible ways, such as minority governments and hung parliaments.

Does this lack of professed trust in politicians – society's delegates – matter? Does it have implications for the role or behaviour of the public service and our other public institutions?

My answer to these 'selfy' Dorothy Dixers, unsurprisingly, is 'yes' – resoundingly so with respect to the second question, which I wish to explore in more detail here.

The Policy-Making Dimension

My focus will be the public policy side of government – my area of comparative advantage – rather than administration *per se* or service delivery. All are integral to how government is perceived by the public. And there are clear linkages between them. However, while there has been a shift in academic attention to the program delivery side in more recent years, desirably so given previous neglect, policy development remains more fundamental, and arguably has become neglected in turn. Although bad implementation or delivery can obviously detract from a good policy or program, even the best delivery cannot save a *bad* policy. Reversing the old maxim, if something is not worth doing, it is not worth doing well. (By the same token, policies need to be designed with an eye to their effective implementation. Implementation failure is often the result of poor policy design.)

If 'policy' – essentially, 'what things to do' - matters most of all in the long run, so too does public trust in government's capacity to do it well. However, such support can be hard to win and to retain, especially from a majority of the community.

One reason for this is that most policy decisions have differential impacts within society. Some groups and individuals will generally gain less than others (think tax or welfare) and some may actually be made worse off (think trade liberalisation or environment protection).

An important class of the latter policies comes under the rubric 'structural reform'. Structural reform can essentially be *defined* as policy changes that, in changing institutional arrangements and production patterns that depend on them, yield significant benefits to the majority at the cost of the few. The passivity of the former relative to the latter makes reform particularly challenging. Indeed, where such arrangements have persisted for some time, they will come to be regarded as legitimate entitlements and, as we have seen repeatedly, the beneficiaries will strongly oppose any government actions that might erode them.

Lack of Trust can be Costly

Few members of the community understand, or would take the trouble to understand, the *detail* of a policy and its likely effects. That is entirely rational, given the negligible payoff to such individual endeavour. Gaining an in-depth understanding of specific policies and programs can be hard enough even for professional analysts and administrators.

It follows that if the public is to support - or at least not actively oppose - many policy initiatives, it needs to have some confidence that a government's decisions would have been well informed, and that the policy in question will operate as intended. Even potential 'losers' may be willing to accept a reform if it is widely believed to be beneficial to society at large (especially if any losses are likely to be transitional rather than terminal).

Lack of trust obviously militates against this, heightening the risk of a lack of public confidence even in policy initiatives that would be genuinely beneficial. To the extent that it becomes harder to implement policies needed to meet contemporary challenges, the performance of an economy and the wellbeing of a country's inhabitants will obviously be affected.

But lack of trust can be economically damaging in itself, by inhibiting the willingness of producers to invest and employ people: actions requiring confidence in the future. While such effects are more commonly associated with 'sovereign risk' of a dramatic kind - such as the potential for expropriation of private assets - there is a continuum that begins well short of this extreme. Empirical analysis has demonstrated a significant correlation internationally between indicators of public trust in government and comparative growth rates.

Lack of confidence in 'the system' foreshortens the horizon (elevates the discount rate) of economic agents and encourages a rent-seeking culture, compounding the economic problems and potentially engendering discord

within society. This is all too evident from Australia's own history, which makes recent signs of a re-emergence of rent-seeking a matter of considerable concern, as I sought to highlight in my recent *Stan Kelly Lecture* (Banks 2013b).

Trust in Policy Depends More on Institutions than Politicians

If the opinion polls are even broadly indicative, the public would be unlikely to have confidence in government policies and programs that were seen to be the product of politicians alone. Indeed, a political leader who sought to popularise a policy by personalising it, may instead heighten resistance to it (the travails of 'Obamacare' being a case in point.) Accordingly, to anticipate a theme of this Oration, the notion of a 'responsive' public service, if taken too far, could have the effect of *reducing* the public's trust in policy decisions.

In this, the public's assessment of politicians would be borne out by the day-to-day experience of public servants themselves. The reality is that Ministers are generally much stronger on policy goals than on the means of realising them. And, on occasion, as public choice theory explains, they will have an incentive to pursue policies aligned more with the needs of particular groups than with the best interests of society as a whole.

It is crucially important, therefore, that the public service is doing, and is judged to be doing, a solid job in advising and informing government policy decisions. That includes curbing any misplaced enthusiasms or reactions to 'events' that, if translated into policy, could produce unintended consequences or poor outcomes for the community as a whole. In other words, a 'responsive' public service should be providing what is *needed* by the government of the day, as well as what may be wanted.

Political representatives and parties in government, come and go. Increasingly, between elections, Ministers and even First Ministers have been coming and going too. The stable core of 'government' - its deep, enduring infrastructure - are the public service and public institutions. How these are constituted and how they behave and perform are in my view central to the public's trust in policy, and in government itself.

Moreover, periods of instability or weakness at the political level, such as under minority government, place a premium on having stability and capability at the administrative level. This is essential if the line is to be held on core governmental values of transparency, accountability and due process. But it is also needed to temper decisions or deals being contemplated on expedient grounds with an awareness of the full consequences for society.

If the public's trust in government has been falling, this is unlikely to be just because esteem for politicians has been in decline. (It was clearly very low to start with.) It is also unlikely to be due to common human frailties that inevitably also manifest themselves in political life from time to time, though these arguably get greater exposure these days through modern media. The more likely and more fundamental cause has been a widening of the gap between what people expect of their governments and what they are getting.

The Perceived 'Delivery Gap'

The fact that loss of trust is also evident in other countries over the past decade or so, suggests that there are some common forces at work. Among developed economies, expectations have undoubtedly risen in parallel with greater affluence and better information (including about the risks of daily life), such that electorates have become increasingly demanding - arguably beyond the capacity of any government to fully satisfy. This 'delivery gap' can be attributed in part to governments themselves and their natural tendency to overstate what they can do for the community. More recently, it will have been exacerbated by the Global Financial Crisis and the curtailment of public expenditure in its aftermath.

Reflecting specifically on the Australian situation, it is also likely that people here have judged that political decisions and actions in more recent years have not been as well informed or implemented as they used to be, or should be. This may partly result from people's experience with how certain policies and

programs are working (or not working). In some cases, policy failings have become all too apparent and very quickly - the 'Pink Batts' initiative being perhaps the standout instance in recent times. But it is also likely to reflect people's perceptions about how well the machinery of government is working; that is, the processes through which decisions are made that affect them.

Advertisements of Policy Untrustworthiness?

Members of the public may not have a detailed understanding of particular policy proposals, nor (rationally) take the trouble to do so, but most people recognise bad process or poor administration when they see them. And insights about these can be readily accessed, whether fairly or not, through a very active media.

Thus, anyone reading a newspaper or otherwise exposed to news or current affairs in recent times could hardly have missed stories of:

- *policy initiatives appearing to come 'out of the blue'* (e.g. the baby bonus, future fund, ban on cattle exports to Indonesia, National Broadband Network, etc);
- *programs being announced without key elements apparently having been agreed or clarified* (e.g. National Water Initiative, funding for the National Disability Insurance Scheme or the free dental program, the Timor and Malaysia 'Solutions' to migrant smuggling, etc);
- *key stakeholders not having been consulted on major policies* (e.g. state governments on hospital funding, miners on the Resource Super Profits Tax and smaller miners on the Minerals Resource Rent Tax, employee representatives on 'Work Choices' or employers on the Fair Work Act, etc)
- *lack of transparency about programs, or the basis for them* (e.g. undisclosed subsidies to car companies, Commonwealth Treasury's carbon modelling, etc)
- *avoidance of long established and well regarded practices within government for policy development* (e.g. exemptions from Regulatory Impact Statements for more 'sensitive' regulatory actions, bypassing of Cabinet scrutiny, etc)
- *abrupt reversals to previously announced policy positions, without adequate explanation or justification* (e.g. the carbon tax, 457 visa scheme, gambling regulation, union access to business premises, etc)

Could it be that such stories and, more importantly, the reality behind many of them, have had something to do with the public's (further) loss of trust in government? Could it be that they have lowered public confidence in the integrity of government decision-making? And could it also be that such failings have contributed in turn to the ongoing contention around key areas of public policy? It seems hardly necessary to give the answers.

A Litany of 'Failure'

To be judged 'successful' a policy needs to satisfy two broad conditions: it must do good and be *seen* to do good. The first condition - doing good - is obvious; the second may be less obvious, yet is crucial to ultimate success. For without public acceptance that a policy is likely to be beneficial, it will be difficult to get up and, if it does manage to be implemented, will be vulnerable to reversal, unless public doubts are allayed quickly by results.

Judged by these standards, public policy in Australia has been going through a rough patch, to put it mildly. Specifically, based on the second condition at least (if not both) we must count among recent policy failures: the carbon and mining taxes; the National Broadband Network; key strands of immigration policy (people smuggling and temporary skill-based entry) and of industrial relations policy (regulations related to union powers and constraints on managerial prerogatives).

None of these policies has overcome significant contention within the community, nor won sufficient support to endure. Indeed, the Coalition has just won office promising to reverse them (and has already made a start).

Unlike other instances that could be cited here - like 'grocery watch' or 'fuel watch', or

the stillborn 'cash for clunkers' scheme - these policies could not be said to be of minor significance. Indeed some were heralded as transformative. At the very least, policies in these areas are too important *not* to get right; and certainly too important to fail. Yet it is no exaggeration to say that some have been failures on a monumental scale.

Admittedly, the policy areas could not be said to be straightforward; some are pretty complex, and at least one - addressing global warming - may even be 'wicked'. But this does not mean failure was predestined. On the contrary, I believe it has been the inevitable consequence of how policy development was managed or mismanaged. In each case, one or more elements of 'good process' was neglected or subverted. As a consequence, there has been a lack of understanding and agreement in the community as to why the policy was needed, at least in the form propounded.

Take carbon policy. There are several dimensions to this debacle, but perhaps the most fundamental was that for several years no government was willing to be up-front with the electorate that reducing emissions required raising the price of energy, nor explain convincingly why this was seen as being necessary despite this country's minor contribution to global emissions.

In retrospect, it is clear that initial public support for an Emissions Trading Regime was essentially predicated on ignorance about how it worked. That was hardly a sustainable basis for policy success. Things got even worse once the penny dropped on energy prices, with an ensuing semantic debate about, as the old saying goes, whether something that 'looks like a duck, waddles like a duck and quacks like a duck', was a tax or not. Policy attention then became preoccupied with disbursing (generous) compensation, while trying not to mention the reason for it. Playing the public for a mug, as my father used to put it, is not the best way of winning its trust.

Each of the other areas of policy failure, like Tolstoy's unhappy families, has its own tale of woe, though there are also things in common. For example:

- The National Broadband Network was conceived in haste and obscurity – not the best way to launch a major policy – and, while many, including the Opposition, accepted the broad policy objective, the government was never able to demonstrate to the community's satisfaction, since the necessary work had not been done or made public, that the massive costs and significant risks of the favoured approach were justified.

- The Resource Super Profits Tax was cherry picked from a broader tax review that was insufficiently independent from government to test crucial policy detail. The political announcement also had a 'gotcha' tone to it that did not resonate well with the public, let alone the industry being targeted. A backlash was inevitable, even though the concept of a resource rent tax had not been opposed in principle by the mining industry. (There is, after all, the precedent of the Petroleum Resource Rent Tax.)

- The Fair Work Act and subsequent legislation, mirroring the Work Choices experience, did not involve adequate consultation nor proper public explanation as to why key aspects of the policy were needed, given the potentially pervasive impacts. (Even standard impact assessment processes within government were not followed.) People were left to conclude in both cases that ideology or vested interests must have been the real drivers.

In these and other significant areas of policy failure, the underlying problem was that, for various reasons, the policy ideas were not adequately evidence-based or subjected to sufficient scrutiny. That is why, in my valedictory speech on leaving the Productivity Commission last year, I concluded a long 'to do' list of previously identified productivity-enhancing reforms, by assigning top priority to the restoration of 'good process in policy formulation' (Banks 2012). Undergoing good process does not guarantee that the policies in question will

get implemented, as the list itself demonstrates; but, without it, failure is likely whether a policy is implemented or not.

'Good Process' and the Duty of Public Servants

The requirements of a 'good' policy process are not rocket science. They are also well documented, including in publications of the Productivity Commission and the Australia and New Zealand School of Government (ANZSOG), and should need no elaboration for this audience. The essential point is that they have been designed to ensure that policy ideas, of which there is never a shortage, can be properly tested and *con*tested before implementation - within the bureaucracy, the community, the Cabinet room and, ultimately, within the Parliament. That means doing the hard yards to verify that the causes of a 'problem' are properly understood; to clarify that government intervention would help, and to work out which approach is likely to be most cost-effective - all necessitating evidence, consultation and debate.

It is the function of political representatives in a democracy to listen to their constituents and find ways of responding to their problems or needs. This is the mainspring of societal progress. But not all politically inspired ideas are sound and, while some may be good for certain members of the community, they may be bad for others. As indicated, trade-offs of this kind are pervasive in public policy, yet are rarely straightforward to assess. It is an important function of the Public Service to assist political representatives in this essential task.

This includes not only helping to identify the potential consequences, the 'pros and cons', of policies being proposed, but also suggesting alternatives that might better meet a government's legitimate objectives - including when these may not have been actively sought, nor even be entirely welcome. This is the essence of what used to be called, without irony, 'frank and fearless' advice.

Fearless, or Merely Frank?

New Zealanders prefer to call it 'free and frank' advice, an expression still in common use within government circles over there. I must admit to reservations myself about a requirement on public servants to be 'fearless'. This is a lot to expect from anybody, particularly public servants. (Even decorated soldiers often reveal that their acts of valour involved little forethought.) But we can all aspire to be *frank*. And, provided public servants are adept at how they communicate, they should have nothing to fear.

In any case, the need to be 'fearless' is greatly overstated. In my experience, it is often the case that a Government's or Minister's favoured course of action is not cast in stone. It may be regarded as a promising way forward, but not with great conviction or following close study. Ministers may not have an appreciation of certain downsides that matter to them, or of alternative means of achieving the same ends. This is especially true of an incoming government that will have framed its policies without the benefit of information available once in office.

Further, it will generally be in a government's own interests to be made aware of the trade-offs in a policy course it is contemplating. A policy that misfires, or that inflicts significant 'collateral damage', can also be very damaging politically, as recent history attests. In the end, policy is the government's call and its call alone - and it will be electorally accountable for how it turns out.

Public servants best serve the public, therefore, by serving well the government of the day: providing government with the analysis and advice needed to make the judgments it has been elected to make. (The Minister for Employment remarked humorously at the dinner for the Institute of Public Administration Australia conference in Canberra, "when we make our own mistakes, we want to do this fully informed".) In this way, public servants have the opportunity to make a real difference to the course of public policy, and there have been instances of great significance over the years.

That said, there are limits to the ability of even the most able departmental adviser to press a course of action that is not accepted politically. Senior public servants must perform a delicate balancing act: one in which they are worthy of the public's trust, but also retain the trust of their ministers while 'talking truth to power'. This, to me, is the essence of leadership in the public sector.

New Threats to Public Service Effectiveness

Being an effective public service leader in this dual sense is very difficult and entails considerable responsibility. Unlike most CEO jobs, if it is not done well, the ramifications for society, and indeed for future generations, can be grave. It is therefore unfortunate that, for various reasons, performing the role well is becoming increasingly difficult.

I am not referring to the policy issues as such. There have *always* been difficult, even 'wicked', problems confronting governments. If anything, there is more information and better technology these days to assist governments address the contemporary variants. Nevertheless, technological change is generally faster, bringing its own challenges; expectations on government to address societal 'ills' are greater; and there is more interdependence, domestically and internationally, than ever before. Take gambling policy. Once it was enough to ban gambling or let it rip. Today governments are expected to find a middle course; regulating it so as to preserve the recreational benefits for the average player, while minimising the (high) costs associated with 'problem gambling'. That is a better objective, but much harder to attain.

The biggest challenges for public servants today, however, arise not from the complexity of contemporary policy problems, but of the environment in which they must be addressed. In my view, changes to their daily operating environment have made it harder than ever for public servants to 'best serve the public by serving well the government of the day'.

There are three dimensions in particular that I would emphasise, all of which appear mutually interactive, and could be said to constitute a wicked policy problem in their own right.

The Rise (and rise) of 'the Office'

If I refer to the first of these as the 'rise of the Office', I am sure most public servants will know what I mean. Even the general public has had some exposure to the issues, following extensive press coverage of remarks made last year by Terry Moran (Moran 2012) and Jennifer Westacott (Westacott 2012) – two eminent former public servants – at the Institute of Public Administration Australia's International Congress in Melbourne. Attendees at that event were also privileged to hear Armando Iannucci from Britain, creator of the Whitehall tragicomedy TV series 'The Thick of It'. All three highlighted a shift in the balance of influence on policy decisions from public servants to private advisers, with the rising power of 'the office' coinciding with a decline in its capability and also its transparency. (This is nicely encapsulated, I think, by the very differences between the *The Thick of It* - and indeed our own *Hollowmen* series - and the *Yes, Minister* equivalent from an earlier era.)

This phenomenon did not occur overnight. It could be said to date back four decades to the governments of Whitlam and Fraser. But in key respects there has been an acceleration over time.

For one thing, the average ministerial office today has at least three times as many staff as those earlier administrations. The fact that the Australian Parliament has been accumulating so many advisers is an issue in its own right. A 2010 survey by the OECD placed us, with nearly 300 advisers at the Federal level, well above most other countries relative to the number of political representatives. (We don't know the current Australian numbers, because there is no longer a public record of such personnel, notwithstanding the rising significance of their role - another development that is hard to justify and unlikely to promote trust.)

More important than this, however, is the shift in the *composition* of ministers' offices: away from people with policy expertise towards those with political, communication or

media management skills. This trend has typically occurred in parallel with a greater number of external appointees, with less experience of government and in some cases little experience at all (characterised by Terry Moran as "the teenagers in the office"). More of these people are aspiring to a political career of their own than was true in the past, with the list of ministerial office alumni in our Parliaments steadily growing.

Had there been no other changes, these alone would have greatly heightened the difficulty facing the public service. For a start, negotiating the office scrum to get to one's Minister is inevitably harder than it was. With larger offices and the proliferation of roles within them, communication generally has also become harder, with more people having a say or, worse, purporting to speak for the Minister.

A delicious insight into all this played out in the press in July after the then Prime Minister's daughter reportedly apologized for likening the halls of power in Parliament to the 2004 film *Mean Girls*, with Lindsay Lohan (in *Cleo* magazine no less). The Prime Minister's former press secretary took exception to the comparison, opining on the *Mamamia* blog site: "It's true that political staff are often young, idealistic and inexperienced", but that doesn't make them "lazy or bitchy" as they were "too bloody busy . . . *running the country*".

The lack of policy expertise in offices has reduced the scope for departmental policy advice to get purchase or support, particularly when it is longer term in nature or where political 'issues' are seen to arise. Potential policy champions have been thin on the ground in recent years. (When the then Treasurer's chief of staff departed a few years ago, I asked a well-placed official who should I now turn to on policy matters. After a long pause, I was informed that there was no-one left at a more senior level.)

The contrast with the key ministerial offices of an earlier era is stark. During the eight years that Bob Hawke was Prime Minister, for example, his office was headed by four senior public servants in a row, starting with Graham Evans, an experienced and highly regarded official in the Commonwealth Treasury. Moreover, as Evans has recently recounted, there were distinct reporting lines within Hawke's office for policy and political advice, rather than the blurring manifest today. Similar settings existed within John Howard's office. It meant that while political considerations inevitably came into play, good policy advice could generally get a hearing. The policy outcomes of that era speak for themselves.

The challenges to an effective public service presented by these developments have been compounded, in my view, by the subtle erosion of the capacity of our most senior public servants to 'speak truth to power'.

In this respect, the impact of the shift to contract employment and performance-based pay for hitherto 'permanent' public service heads, following legislative changes since the early 1990s, has long been debated among public servants. This has mostly been in private, but the arguments were aired publicly in a celebrated exchange in the Australian Journal of Public Administration between a former Australian Public Service Commissioner, Andrew Podger (Podger 2007a; 2007b), and the then head of the Prime Minister's Department, Peter Shergold (Shergold 2007).

Both make cogent points. My own attitude, which no doubt reflects an economist's prejudices, is to look above all to the incentives. If one can be sacked, moved or not renewed for giving unwanted advice, one will tend not to give it. That is not to say that 'character' is irrelevant; nor that exemplary individuals would never go to the wire for something they saw as crucial to discharging their duty properly. (Indeed, during my time at the Productivity Commission I unexpectedly acquired a new Commissioner in just these circumstances.) Moreover, it is also likely that a 'mandarin' who made the transition from the old regime to the new would be unlikely to shed his behavioural habits overnight.

But in the course of time and, importantly, through the selection by ministers of new agency heads to replace the old ones, the incentive system must surely assert itself. This is quietly acknowledged by many senior insiders. One provided the following insight at an ANZSOG roundtable earlier this year: 'We still give

advice that includes different options, but we now tend to avoid those we know to be unwelcome'.

The New Media

The changed composition of ministerial offices can be explained in large part as a defensive reaction to developments within the fourth estate that have increased the perceived need for 'issues managers' and communications specialists. The media pressures on today's political leaders are indeed intense.

When after several years abroad, my family and I returned to Australia in the mid-1980s, we found ourselves during a road trip taking a break in Gundagai's famous Niagara Café. On our way out, I noticed a faded plaque in honour of a visit to that establishment by John Curtin, dated around 1944. It has led me to reflect ever since on how political life has changed. In the depths of war, Australia's Prime Minister could well have been driving to the nations' capital on important business and chose to stop, like my family, for a cup of tea. Wartime Gundagai would have been a media free zone. If our Prime Minister had tripped and fallen over on the way out of the café, or had had a heated exchange with the local Country Party member, hardly anyone would have known about it. Indeed, for most of the slow journey to the nation's capital he would have been *incommunicado*.

Fast forward to the around-the-clock media world of today. No one, least of all a Prime Minister, can be truly incommunicado anymore. Moreover the nature of the media's interest in politics has both changed - stumbles get top billing - and increased in intensity. The growth of electronic media has brought a relentless quest for daily, even hourly, *content*. And to attract and hold a fickle audience, that medium must provide what Dame Edna called "colour and movement". When it comes to news or current affairs, stories to do with personalities and conflict, ideally encapsulated in 'sound bites', have become the order of the day.

In this world, there is more pressure than in the 1980s, and certainly than in Curtin's day, for political leaders to have a position on the issue of the moment; indeed to have an instant so-lution to every perceived 'problem' - desirably involving regulation or money, or both. To the extent that ministers succumb to this pressure, this is not a circumstance that favours the measured, deliberative advice of the public service. But it does favour the more nimble political office with an armoury of manoeuvres and spin at its command.

The upshot is that the public service is all too often placed in reactive mode, often having to justify, and find a least bad way of implementing, a decision made in the heat of the moment without the benefit of its advice. Hence the wry comments one hears in government circles about 'policy-based evidence' and 'regulate first, ask questions later'. Recalling the inversion of the saying 'if something is worth doing', it is perhaps unsurprising that the bureaucracy is regarded as not doing well in this setting.

The Advent of 'Oppositionism'

Inherent to the Westminster parliamentary system of government is the concept of an 'Opposition'. Adversarial politics is hard-wired into the system. And contests to establish which side is the fittest to rule can be brutal. That's how things are and it is a system shown to have great strengths. However, it appears to have become more 'oppositionist' over time, to the point where any policy initiative of an encumbent government, no matter how good, risks being opposed out of hand.

This is not unrelated to the media trends just described. There is no 'story' in political agreement (unless a backroom deal can be inferred) let alone in bipartisanship. And the subtleties in *qualified* acceptance - say support for a government's policy objective or parts of its policy package - tend to be lost on the electronic media. Being reasonable is likely to be interpreted merely as weakness and seen as unhelpful by an Opposition struggling to get the public's attention.

Contrast this again with the experience of the 'Reform Era', when for example John Hewson, as leader of the Opposition, not only supported unilateral tariff liberalization - the first Coalition leader in history to do so - he pressed

the Government to cut deeper than its declared target of five per cent (and this during an emerging recession). Or take the seamless progression of the fledgling National Competition Policy after the Howard Government replaced the Keating Labor Government that initiated it.

The rot appears to have set in shortly after, when the Goods and Services Tax continued to be opposed by the Labor Opposition after the 1998 election on which it was fought. Though ultimately unsuccessful on that occasion, the stage was set for more such oppositionism, and employed to good effect over recent years by the Coalition in Opposition, though admittedly often with more substantive cause.

Oppositionism makes a public servant's life harder in a number of ways. For one thing, it reduces scope for contact with Opposition members, which at times has played a useful educative role and facilitated acceptance of policy proposals. For another, it can lead to a preference for keeping certain details of policy development (such as modelling assumptions) under wraps, raising suspicions about what these might reveal or about political influence on the analysis.

Further, it encourages a government to use the bureaucracy politically to bolster its policy claims. This can take the relatively benign form of citing supportive departmental research to, at the other extreme, getting senior officers to become public advocates for a policy. The latter places departmental officers in an invidious position, particularly where the policy in question is highly contentious politically. If they don't accept their political masters' commands, public servants will be regarded as 'unresponsive' by the Government, with all that that implies these days; if they do, they will be regarded as 'political' by the Opposition and face the prospect of retribution when it wins power again.

Other 'Difficulties' (in Brief)

These combined influences have made it harder for the public service to provide the kind of robust support for government decision-making that is needed - and no doubt in turn reduced public trust in their capacity to do so. They are likely to have been compounded by a number of other phenomena of significance that can only be dealt with briefly here.

- One is the strengthening of 'freedom of information' laws which, though well motivated, have now reached the point where they strike at the heart of the public servant's need for confidentiality in providing frank advice to government. It is hard to be frank about policy matters that are politically sensitive when one's advice risks getting out. In this situation more briefings will be conducted orally, with fewer records kept and reduced opportunity for wider scrutiny within government itself. This also favours the 'hollowmen' syndrome and ultimately serves the public ill.

- Another is the proliferation and increased sophistication of special interest groups. Inherent to the political landscape, their influence has risen with the rise of the Office, and the larger and more receptive network of contacts within, and with the new media's hunger for 'content' and its preference for simple stories. This has enabled pressure groups to get even the most self-serving messages out to the public without much fear of critical scrutiny on the way through. The political power of advertising has been evident in such key policy areas as industrial relations, industry assistance, environmental regulation and taxation. (It is instructive, for example, that the Gillard Government insisted on an advertising truce as a precondition for negotiating a replacement to the mining 'super profits' tax.)

- Third, and perhaps most topically in Canberra at the moment, are the post-crisis cuts in departmental budgets, which have been unprecedented in scale but thus far have generally conformed to the age-old, uniform 'efficiency dividend' model. Without better targeting of specific functions, programs and structures that are adding little or no value, or costing too much, there is the risk of further reducing public sector capability where it matters

most, particularly from a policy development perspective. An example of this - one admittedly close to my heart - is the current reduction in the Productivity Commission's budget. This may see that body lose up to a quarter of its staff at a time when it is sensibly being called upon to provide in-depth analysis and advice on a range of key policy issues. To the extent that this necessitates short cuts, particularly in consultation, the quality and credibility of the Commission's reporting may be jeopardised. The savings in budgetary terms will be miniscule in an overall sense, but the opportunity cost for the community could be large.

Restoring Trust in Public Policy

The declining trust in government has no doubt been picked up in political focus groups as well as in surveys such as those cited here. In the recent Federal Election, both sides proclaimed a 'trust us' message. In this, the Coalition had the undoubted advantage, in that the trust-reducing events foremost in peoples' minds were inevitably associated with the party in power.

The Opposition Leader's pledge to provide a government that "says what it means and means what it says; a government of no surprises and no excuses" clearly resonated electorally. If this formula were to be reflected in actual conduct in the years ahead, I am sure it would do much to rebuild trust in Government and in public policy as well. It would mean, for example - recalling my earlier list - policies *not* appearing out of the blue; programs *not* being announced prematurely; stakeholders *not* being ignored; details of programs and their rationale *not* being suppressed, and policies *not* being dropped or reversed without explanation. This would not only avoid negative 'visual' cues, it might also be expected to result in better policy outcomes, reinforcing the grounds for public confidence.

Whether this eventuates in practice, however, will depend on more than the qualities and inclinations of the political leadership, important though these clearly are. It will depend also on what systems are put into effect to inform and, at times, constrain political decision-making, and how effectively these are deployed. Given the intense pressures emanating from the media, and from the public itself, the temptation to pursue short-term tactical advantage can be great, even when this invites strategic failure.

Developments described earlier have seen the erosion of processes and institutions designed to test policy ideas or responses before their adoption, with predictable effect. If trust in public policy is to be restored, this needs to be remedied. In particular, the capacity of the public service to perform its policy advisory role well should receive priority attention.

The foundation for this is the proper functioning of the Cabinet system, such that all significant policy decisions can be both well informed and adequately debated. This brings with it the expectation that Ministers will be briefed, requiring public service input. In addition, the distribution of written 'coordination comments' by departments enables different portfolio perspectives to be brought to bear transparently. These should not be curtailed, nor the contents censored or filtered. It follows that an effective Cabinet process requires adequate time. (The announced reintroduction of the 'ten day rule' for submissions is a promising early development).

Establishing greater balance between the Office and the Department is also a fundamental requirement if substance is to have a chance of prevailing.

In relation to the Office, apart from the need for some senior appointees to have policy experience, advisers should receive training on their roles, duties and obligations (as has already occurred in some jurisdictions). A code of conduct, as recommended by Westacott and Moran, would also be desirable. At the very least, transparency around appointments should be restored to what it was a decade ago.

While 'permanent heads' are now undoubtedly a relic of the past - desirably so in many respects - department heads need more protection against termination for giving unwelcome advice than is presently the case. And their appointment, while perhaps inevitably political in

the Australian setting (unlike in New Zealand) needs greater formal scope for merit to be explicitly taken into account. Regardless, no government should seek to enlist senior public servants as advocates for its policy causes (and if they do, this should be resisted).

The provision of robust advice in the public interest would be facilitated by reversing recent changes to the *Freedom of Information Act*. By the same token, transparency should be enhanced where it really matters, such as in relation to Impact Statements for regulatory proposals, and Cost Benefit Analysis for major government projects. No outlays of taxpayer funds should be confidential, especially those intended to shore up a firm's or industry's position in the marketplace.

Such changes would make it easier for public service leaders to discharge their responsibilities to citizens as well as to the government of the day. But, even without these, there are some actions that can usefully be taken.

One is simply to uphold processes and institutions already in place for the purpose of promoting more informed policy decisions. A key one that I have already mentioned is Regulation Impact Assessment, which essentially requires departments and agencies to demonstrate that the elements of good process have been followed for any significant regulatory proposal. This requirement, endorsed by the Council of Australian Governments, has potential to be a useful departmental counter to the 'act first, ask questions later' approach that can on occasion emerge from ministerial offices. However many departments have neglected the opportunity. (They include the Treasury, whose well-known disdain for the RIA process has arguably also helped undermine that instrument as a discipline on the regulatory interventions of other portfolios.) A renewed focus under the current Government on managerial incentives for compliance is therefore also welcome, although how this is achieved remains to be tested.

Departments could also be more influential in arguing for Green Paper/White Paper processes that enable public scrutiny of policy proposals on key issues, as well as for properly constituted reviews and inquiries where

an arm's length process is desirable. That said, and as noted on a previous occasion (Banks 2013a), it is not good practice for agency heads to lead policy reviews that warrant formal independence.

There is also a need to build a culture of ideas, and of respect for evidence, within departments, such that policy issues and options can be well canvassed and able to transcend the immediate concerns of the Office. This can also help government prepare for longer-term issues that are yet to appear on political radars (the early intergenerational research within Treasury being a good example). However it requires a critical mass of policy analytic capacity, which most departments appear to have forfeited under the pressure of budget cuts. These cuts are also taking their toll on training. This is short sighted. Managerial training is an investment in future capability and departments neglect it at their peril.

In Conclusion

After a decade in which 'spin' has often triumphed over substance in policy-making, these actions may seem a little old fashioned or perhaps overly ambitious. But any observer of contemporary politics could find grounds for concluding that the ascendancy of spin has had its day. While it may once have been possible, as the old saying goes, to fool most of the people most of the time, things have arguably reached the point where it is hard to fool any of the people *any* of the time. Cynicism about public policy is palpable. And, with low levels of trust, even good policy has become hard to convince the electorate about. This poses a major problem for Australia's progress. The challenges we face as a nation are as great as ever. Restoring the basis for public trust in necessary policy responses is an imperative.

How this might be achieved can be distilled into two words: '*good process*'. Without good process, trust will remain low and policy success elusive. Instituting good process should not be that hard, because we know what it consists of and have witnessed its active use in the past. Its demise appears to have had more

to do with opportunistic politics than any loss of belief in its efficacy for policy. With such opportunism now recognised to have failed, even politically, the time has come to return to what worked so well for us before. Political leadership will be crucial in this, but the Public Service and its leadership also have a central role to play.

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